

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	CHAPTER 13
)	
WESLEY KREGG GARY, JR.,)	
)	
Debtor.)	CASE NO. 18-51127-BEM
<hr style="border-top: 1px dashed black;"/>		
CF REAL ESTATE SERVICES, LLC,)	
A/A/F THE GRANDSTAND APARTMENTS,)	
)	
Movant,)	
v.)	
)	CONTESTED MATTER
)	
WESLEY KREGG GARY, JR., Debtor,)	
MARY IDA TOWNSON, Chapter 13 Trustee,)	
)	
Respondents.)	

NOTICE OF ASSIGNMENT OF HEARING

NOTICE IS HEREBY GIVEN that a Motion for Relief from Automatic Stay has been filed in the above-styled case and a hearing will be held on the Motion for Relief from the Automatic stay in Courtroom 1402, United States Courthouse, 75 Ted Turner Drive SW, Atlanta, Georgia, at 9:30 A.M. on March 13, 2018.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one. If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including

address) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive SW (Spring Street), Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the court orders otherwise.

Dated: February 7, 2018

/s/ Justin D. Kreindel
Attorney for Movant
State Bar No. 550128
2970 Clairmont Road
Suite 220
Atlanta, GA 30329
404-633-5114
jkreindel@apartmentlaw.com

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MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW CF Real Estate Services, LLC a/a/f The Grandstand Apartments, by and through counsel, and hereby moves the Court as follows:

1.

This Court has jurisdiction over this contested matter pursuant to 28 USC 1471 and 11 USC 362 and 363.

2.

The Debtor filed a petition under Chapter 13 of the Bankruptcy Code on January 24, 2018.

3.

Movant is the lessor of the premises where the Debtor resides at 1118 Windcliff Dr., Marietta, Georgia 30067 (the "Premises").

4.

Debtor leased said property from Movant under a written lease agreement at a monthly rental rate of \$1,091.00 with a late fee of \$160.00, plus monthly utilities determined by Debtor's usage and due with each month's rent.

5.

The Debtor owes pre-petition rent and fees for the months of December 2017 and January 2018 in the amount of \$3,036.64 and post-petition rent and fees for the month of February 2018 in the amount of \$1,338.50.

6.

Pursuant to 11 USC 362, Movant is stayed from the commencement or continuation of any court or other proceeding against Debtor to recover the leased premises.

7.

Debtor has a mere possessory interest in the property.

8.

By reason of the foregoing, continuation of the automatic stay of 11 USC 362(a) will work real and irreparable harm to Movant.

9.

Debtor is still in possession of the premises, and Movant is not adequately protected. Therefore Debtor is required to return possession to the lessor.

WHEREFORE, Petitioner prays for:

1. An Order terminating the automatic stay and authorizing Movant to commence and/or continue with eviction proceedings in State Court;
2. An Order deeming Debtor's lease for the Premises rejected;
3. Possession of the premises;

4. A waiver of Bankruptcy Rule 4001(a)(3);
5. Reasonable attorney's fees; and/or
6. Such other and further relief as is just and proper.

This the 7th day of February, 2018.

/s/ Justin D. Kreindel
Justin D. Kreindel
Attorney for Movant
State Bar No. 550128

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CERTIFICATE OF SERVICE

I, Justin D. Kreindel, of 2970 Clairmont Road, Suite 220, Atlanta, Georgia 30329

certify:

That I at all times hereinafter mentioned was more than 18 years of age;

That on February 7, 2018, I served a copy of the within NOTICE OF ASSIGNMENT
OF HEARING together with the MOTION FOR RELIEF FROM STAY filed in this bankruptcy
matter on the following respondents via U.S. First Class Mail addressed as follows:

Mary Ida Townson
Chapter 13 Trustee
Suite 2200
191 Peachtree Street, NE
Atlanta, GA 30303-1740

Wesley Kregg Gary, Jr.
1118 Windcliff Drive
Marietta, GA 30067

Howard P. Slomka
Slipakoff & Slomka, PC
Overlook III - Suite 1700
2859 Paces Ferry Rd, SE
Atlanta, GA 30339

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

Executed on: February 7, 2018

/s/ Justin D. Kreindel
Justin D. Kreindel
Attorney for Movant
State Bar No. 550128

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